

# A Great Jurist's View of the League of Nations

THE literature of the great war has produced no more remarkable publication than a volume containing three lectures on the proposed League of Nations and its problems, from the pen of a native of Germany, who ranks in England and America as one of the highest living authorities on the law of nations—namely, Lassa Francis Lawrence Oppenheim, Whewell professor of international law in the University of Cambridge, England. Prof. Oppenheim is a German by birth, but an Englishman by adoption, having become a British citizen in 1900, when he was 48 years old. He is the author of an elaborate treatise on international law, which is not surpassed by any modern work on the subject and which is studied wherever international law is taught. Although his academic education was derived from four great German universities—Göttingen, Heidelberg, Berlin and Leipzig—his attitude toward the war has been and is pro-Ally heart and soul, as is evidenced by his declaration in the preface to the present volume, where he says it was essential that Germany should be utterly defeated and should be compelled to atone and make ample reparation for the cruel wrongs which cry to Heaven. Again he says: "Unless Germany be utterly defeated the spirit of militarism, which is not compatible with a League of Nations, will remain a menace to the world." So we have here a work by the greatest living international lawyer which Germany has produced utterly condemning the course of the German Government in the greatest war the world has ever seen. This explains its publication in London by an old and celebrated English publishing house.

These three lectures by Prof. Oppenheim were delivered to his students at Cambridge without any thought of publication. They are rather dogmatic in form, as such lectures are apt to be, but the author's propositions are based on facts which can hardly be gainsaid, and his arguments, although concise, are logical and convincing. All the discourses are pervaded by the idea that any successful League of Nations to be formed now should necessarily be founded on what has already been accomplished or attempted in the famous Hague conferences.

The purpose of a League of Nations, according to Dr. Oppenheim, should be threefold: (1) To prevent wars on account of disputes capable of settlement by judicial decision; (2) to prevent sudden outbreaks of war on account of political disputes by requiring the prior submission of such controversies to a tribunal of conciliation, and (3) to enforce these two aims by requiring the States which belong to the league to unite their economic, military and naval forces against any member resorting to arms in disregard of the foregoing requirements.

Prof. Oppenheim does not believe at all in the practicability of building up a League of Nations based on the United States of America as a model. "A Federal State comprising all the single States of the whole civilized world," he declares to be a Utopia, "and an international army and navy," he says, "would be a danger to the peace of the world." The only scheme in which the author has any confidence is the organization of a family of nations on extremely simple lines, "so

as to secure, on the one hand, the absolute independence of every State, and on the other hand, the peaceful coexistence of all the States." The formation of such a league presents four problems, which he states thus: There is, first, the problem of the organization of the league; secondly, the problem of legislation within the league; thirdly, the problem of administration of justice within the league, and fourthly, the problem of mediation as an antidote to sudden outbreaks of war arising out of political disputes.

In considering the first problem Prof. Oppenheim reiterates with emphasis his opinion that the organization of a new League of Nations should start from the beginning made by the two Hague peace conferences, inasmuch as the successful development of the league must progress step by step with the development of international law. He would admit to the league all civilized States which recognize one another's external and internal independence and absolute equality in a legal sense. The chief organ of the league should be the Peace Conference, meeting at prescribed intervals without being convened at the instance of any particular Power, whose task should be "the gradual codification of international law and the agreement upon such international conventions as are from time to time necessitated by new circumstances and conditions." The resolutions of the conference Prof. Oppenheim would make binding only upon those States by which they were expressly agreed to and ratified. In

## "The New Morning"

By CONSTANCE MURRAY GREENE

A volume of poems by Alfred Noyes published by the Frederick Stokes Company includes all of his poetry since 1914 and is appropriately entitled *The New Morning*, toward which his face is always turned. The divine sanity, clear beauty and quiet strength of such work coming at the present time is of incalculable value. Mr. Noyes has all the fire and passion of the martial spirit, but more deeply he feels "the tides of peace that underlie our strife," and he hears:

"The trumpets of that last Republic roll  
Far off, an end to wars."

Without any sacrifice of loyal devotion to his own country he is also an enthusiastic adopted American who speaks proudly of "our Englishman, George Washington, who fought the German king."

Among the war poems included in the volume are *The Avenue of the Allies*, *On the Western Front* and *Victory*, written after the British service at Trinity Church, New York, from which we have selected this sonnet:

"How shall the world remember? Men  
forget;  
Our dead are all too many even for  
fame!  
Man's justice kneels to kings, and pays  
no debt  
To those who never courted her acclaim."

"Cheat not your heart with promises to  
pay  
For gifts beyond all price so freely  
given."

Where is the heart so rich that it can say  
To those who mourn, 'I will restore  
your heaven'?"

"But these, with their own hands, laid up  
their treasure  
Where never an emperor can break in  
and steal,  
Treasure for those that loved them past  
all measure  
In those high griefs that earth can  
never heal,"

"Proud griefs, that walk on earth, yet  
gaze above,  
Knowing that sorrow is but remembered  
love."

In addition to these notable poems on the war there are two early poems, *The Phantom Fleet* and *Michael Oaktree*, hitherto unpublished in this country, and besides a large number of miscellaneous verses, two groups in a vein which is something of a new departure for Mr. Noyes, *Touchstone on a Bus* and *Five Criticisms*.

THE NEW MORNING. BY ALFRED NOYES.  
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other words, resolutions of the majority should only bind the majority voting for them. This feature leaves each member of the league practically free in the exercise of its treaty making power, which would not be the case if a majority could compel obedience to a resolution by a State which had voted against it. Finally Dr. Oppenheim would embody in the organization of the league the three-fold agreement already mentioned: (1) to submit all judicial disputes to international courts to be established for their determination; (2) to submit all non-judicial disputes to international councils of conciliation, and (3) to enforce such submission by the united exercise of the economic, military and naval forces of all the other members.

The international legislation which the author has in mind as one of the most important functions of the peace conferences to be held regularly under the League of Nations has hitherto consisted of regulations which nations have voluntarily imposed upon themselves by treaties with other nations. He points out that agreements have thus been reached on a number of rules of international law since the Vienna Congress of 1815. "However, such agreements have only occurred occasionally, because the community of civilized States has not hitherto possessed a permanently established organ for legislating. Much of the legislation which has taken place in the past was only a by-product of congresses or conferences which had assembled for other purposes. It will only be when the Hague peace conferences have become permanently established that an organ of the League of Nations for legislating internationally will be at hand."

It is interesting to observe how completely in accord are the views of Prof. Oppenheim in reference to the importance of international legislation and those expressed by Senator Elihu Root in his recent letter suggesting amendments to the original scheme of the Paris conference for the organization of a League of Nations. "The second change which I think should be made," says Mr. Root, "is to

provide for a general conference, followed by regular conferences at stated intervals to discuss, agree upon and state in authentic form the rules of international law, so that the development of law may go on and arbitral tribunals may have continually a more perfect system of rules of right conduct to apply to their decisions." No provision for the development of international law was made in the covenant as originally drafted, although its necessity and propriety would seem to be obvious to any one pretending to statesmanship.

The basis of modern international law is the classic work of Hugo Grotius, *On the Law of War and Peace*, published in 1625, five years after the Pilgrims landed at Plymouth. Fanciful schemes, however, for guarantees of eternal peace to mankind date back to the fourteenth century, the earliest being that of a French lawyer named Pierre Dubois, who as early as 1305 proposed a plan which included the determination of international differences by a tribunal of arbitration. Others mentioned by Prof. Oppenheim are that of Antoine Marini, Chancellor of Podiebrad, King of Bohemia, who in 1461 wanted to form a federation of all the Christian nations with a congress at Basle in Switzerland; that of Sully, sanctioned by Henry IV. of France, who planned a similar federal organization, comprising fifteen States as members, and that of Emerie Cruce, who in 1623 proposed a union of all the Christian and non-Christian countries in the world, with a general council at Venice. These historical data show that the aspiration for universal peace is an old and ever recurrent story.

These lectures by Prof. Oppenheim might have been studied with profit by the statesmen who drafted the original covenant for the proposed League of Nations at the Paris Conference. If the author's suggestions had been heeded their work would have required far less revision and amendment.

THE LEAGUE OF NATIONS AND ITS PROBLEMS. BY L. OPPENHEIM. Longmans, Green & Co. \$2.

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